



**Testimony of James A. Ault,
Michigan Electric and Gas Association**

**Senate Bill 437 (S-2) & 438 (S-2)
May 5, 2016**

My name is Jim Ault and I am President of the Michigan Electric and Gas Association (MEGA), a trade association of member electric and gas investor-owned public utilities providing service in Michigan, in each case to fewer than 250,000 customers. This testimony is provided on behalf of the collective interests of the members regarding the proposed legislation in SB 437 and 438.

MEGA provided testimony last year before both the House and Senate supporting proposed regulatory changes including the phase out of retail open access, replacing renewable and environmental mandates with the new integrated resource planning (IRP) process, restoring electric decoupling authority to the MPSC, providing regulatory flexibility for the smaller utilities and removing the retail rate subsidy for net metering customers going forward. Other concepts we supported were the continuation of gas energy efficiency programs and availability of interim relief after the elimination of rate self-implementation, for smaller gas utilities.

Chairman Nofs has indicated on many occasions that with legislation this comprehensive and many competing interests, no one will get everything they want.

For MEGA member interests, we do not see the desired return to full regulation. There is a new 30% combined goal for waste reduction and renewable energy and the customer-funded case intervention program is being expanded. We did not seek these outcomes.

At some point the debate must end to move forward and implement a process to meet Michigan energy needs in a cost effective, clean, efficient and reliable manner. We are committed to working together to make the new procedures work and are generally supportive of the direction taken in the proposed bills. I would once again extend our appreciation to Senators Nofs and Proos and their staffs for being open to consider our

proposals during this process. For the entire committee, we thank you for the efforts made to understand the difficult industry and regulatory matters and address the critical issues in these hearings.

MEGA would like to propose slight changes in the following areas, with language we have submitted or will submit:

- The new residential energy improvements program in SB 438, Part 7 makes it optional for a regulated utility to establish a program but an approved plan must include on-bill financing. This would discourage utilities from proposing these plans, even though alternative financing options (Michigan Saves) exist. We propose modifying Section 203(2) to make on-bill financing an optional program element for the utility.
- The new Section 6v in SB 437 requires contested case proceedings at least every 5 years to update a utility's avoided cost rate. There are no PURPA projects in many utility service areas and we would request that Section 6v (1) be amended to indicate that the commission may waive the contested case requirement where a written filing and comment procedure will be sufficient to provide due process.
- The new Section 6x in SB 437 authorizes a shared savings mechanism for electric utilities that exceed targeted savings levels starting at 1%. We propose that the lowest level incentive be made available to an electric utility that meets or exceeds a savings target lower than 1%, if that lower target has been approved as appropriate in the IRP. This is consistent with overall intent to provide an incentive for efficiency programs.
- In Section 6t (4) of SB 437 (P54, L13) the words "in this state" were not included regarding the customer threshold of 1 million for alternative procedures. In order to cover the largest multistate utilities with relatively few Michigan customers, this quoted phrase should be added.
- Several members have asked for clarification on the distributed generation compensation and we are considering the language.

MEGA or individual members may have additional minor language changes to propose based on ongoing reviews and new substitute bill language adopted by the committee.

The bills appear to be undergoing further revision and various interests have expressed the intent to propose amendments. As indicated above, MEGA did not get everything we wanted in the proposals and we have a few comments on issues where this

committee should proceed with caution or monitor the situation after the legislation is implemented.

Risk of Floor Amendments: Unintended adverse consequences can occur if the process evolves into a situation where amendments are added on the floor that do not receive full scrutiny. One need only consider that an exception to the 10% choice cap in 2008 came about in this manner. Much of the controversy and expense in the Upper Peninsula over the Presque Isle Power Plant might have been avoided had the proposal been considered in the committee process.

Elimination of Mandated EO and RE Percentages: MEGA supported the idea that the EO and RE technologies have been developed enough to stand on their own feet in the IRP process. SB 438, Section 1 now includes a 30% combined goal for waste reduction and renewable energy (by 2025) which could be transformed into a mandate by the MPSC based on SB 437, Section 6t (8), which lists consistency with that goal as one of the required MPSC determinations in approving an IRP for any utility. Achieving the goal in a cost effective manner could prove difficult or impossible for utilities with long-term purchase power contracts or adequate existing capacity to meet anticipated demand.

Intervention Funding: MEGA member utilities, due to their size and the reliance on precedent from the large utility cases, often settle their cases before the MPSC, following Staff review and negotiation. This saves administrative and litigation costs. Expanded intervenor funding may result in higher costs to customers, not just from the annual funding costs put in rates each year, but from the ongoing costs of litigating more cases instead of settlements. Experts hired to “find” contestable issues and propose disallowances will strive to find them, which is what automatic annual funding will encourage. This situation should be monitored closely.

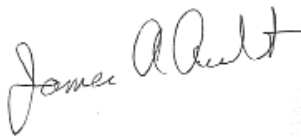
The issue of residential customer representation is important, too. Much of the funding from the UCPB in recent years has been awarded to advocacy groups such as Michigan Environmental Council, Great Lakes Renewable Energy Association, and Michigan Energy Innovation Business Council. As a residential customer of a large utility paying for this representation by advocacy groups, I have no say in the representation or whether these groups are proper representatives. Customers already pay for the MPSC and its Staff to assure just and reasonable rates. We believe it would be more cost-effective to provide funding to the MPSC Staff or Attorney General to hire consultants on issues pertaining to residential customers.

IRP Standard: The IRP standard in SB 437, Section 6t is "most reasonable and prudent". The state and federal regulatory statutes commonly use "reasonable and prudent" or "just and reasonable" standards for regulatory oversight. These traditional standards recognize that there can be a variety of reasonable approaches and it may be impossible to know in advance that one proposal is superior to all others under consideration. Adding the word "most" to the standard may reduce agency flexibility, elevate the significance of the political climate and make it difficult for a court to grant meaningful review. As we have seen in these committee hearings, there are many conflicting views on energy solutions and this law makes it clear that the regulators must pick one to adopt. For better or for worse, the supply resource decisions are being removed from the discretion of the utility and placed completely with the agency. The concept of utility management discretion is being eliminated, in favor of the views of appointed regulators. This bears close watching as the IRP process unfolds.

Thank you again for considering our comments and for the time and resources you have applied to this legislative effort.

Very truly yours,

MICHIGAN ELECTRIC AND GAS ASSOCIATION

A handwritten signature in cursive script that reads "James A. Ault". The signature is written in dark ink and is positioned above the printed name and title.

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President

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